

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

United States Courts  
Southern District of Texas  
**FILED**

SEP 29 2004

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MIGUEL N. MIBAY, Clerk of Court

## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,**

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**Plaintiff,**

H-04 3788

V.

**§ CIVIL ACTION NO.**

**U-HAUL CO. OF TEXAS, d/b/a U-HAUL CO.  
OF NORTH HOUSTON and U-HAUL  
INTERNATIONAL, INC.**

#### **Defendants.**

## JURY TRIAL DEMAND

**ORIGINAL COMPLAINT  
OF THE**

**UNITED STATES EQUAL OPPORTUNITY COMMISSION**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

## NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, and to provide appropriate relief to Telesha Whitaker, Tammy Jones, Crystal Cotton, and other women who were adversely affected by such practices. As alleged with greater particularity in paragraphs 10-14 below, women employed by Defendants as Customer Service Representatives at U-Haul Center 56, in Houston, were subjected to unlawful sex discrimination, including sexual harassment. Additionally, Defendants unlawfully retaliated against Ms. Jones, and failed to comply with applicable record-keeping laws.

## JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343

and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a ("Title VII").

2. The unlawful employment practices alleged in this complaint were committed within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division. Venue is appropriate in this court.

#### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston ("U-Haul Texas"), has continuously been a Texas corporation doing business in the State of Texas and the City of Houston, and has continuously had at least 15 employees.

5. At all relevant times, U-Haul Texas has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h). U-Haul Texas may be served with process by serving its registered agent, CT Corp. System, which may be found at 350 N. St. Paul Street, Dallas, TX 75201.

6. At all relevant times, Defendant U-Haul International, Inc. ("U-Haul International"), has continuously been a Nevada corporation, and has continuously had at least 15 employees.

7. At all relevant times, U-Haul International has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of

Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Telesha Whitaker, Tammy Jones, and Crystal Cotton filed charges with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least November 2003, Defendants have engaged in unlawful employment practices at U-Haul Center 56, in Houston, Texas, in violation of Sections 703(a)(1), 703(k), and 704 of Title VII, 42 U.S.C. §§ 2000e-2(a)(1), (k), and 2000e-3.

10. While working for Defendants at U-Haul Center 56, female Customer Service Representatives were subjected to an unlawful, sexually hostile environment. They also were subjected to sex discrimination by not being paid, unlike males, for time they worked.

11. Whitaker, Jones, and Cotton reported the discrimination to management officials in Houston, and to U-Haul International employees in Defendants' corporate headquarters. They reported that their supervisor at U-Haul Center 56 engaged in the following conduct: asked if they could go out on dates; asked for oral sex (offering payment for this intimate act); touched Whitaker's breast, put his hands between her legs, and rubbed her behind; and threatened to fire women for rejecting his sexual advances. Although Whitaker reported this conduct to management by December 9, 2003, Defendants took no action for weeks and permitted this conduct to continue.

12. Defendants fired the harassing supervisor on January 21, 2004, for "NOT FOLLOWING CASH MANAGEMENT POLICIES AND PROCEDURES. UNAPPROPRIATE [sic] BEHAVIOR TOWARDS EMPLOYEES."

13. After she filed a Charge of Discrimination with the EEOC, Defendants fired Jones.

This firing, allegedly for her not showing up for work on a day Defendants contend she was scheduled to work, was retaliatory.

14. Since at least June 2004, Defendants have failed, in violation of Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), to make and preserve records relevant to the determination of whether unlawful employment practices have been or are being committed. Specifically, Defendants have failed to retain a copy of the work schedule which would indicate whether Jones was indeed scheduled to work the day for which she was fired for not reporting to work.

15. The effect of the practices complained of in paragraphs 10-14 above has been to deprive Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex, and to deprive Tammy Jones of equal employment opportunities and otherwise adversely affect her status as an employee by unlawfully retaliating against her.

16. The unlawful employment practices complained of in paragraphs 10-14 above were intentional.

17. The unlawful employment practices complained of in paragraphs 10-14 above were done with malice or with reckless indifference to the federally protected rights of Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives.

**PRAAYER FOR RELIEF**

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston, and U-Haul International Inc., their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in sexual harassment and any

other employment practice which discriminates on the basis of sex, and from engaging in unlawful retaliation against employees who complain about sexual harassment and other unlawful employment practices.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for women and employees who complain of employment practices prohibited by Title VII, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendants to make whole female Customer Service Representatives who were not appropriately compensated for their work, because of their sex, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to their reinstatement.

D. Order Defendants to make whole Tammy Jones who lost her jobs as a result of the unlawful retaliation by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 10-14 above, including job search expenses and medical expenses not covered by Defendants' employee benefit plan, in amounts to be determined at trial.

E. Order Defendants to make whole Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 10-14 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Telesha Whitaker, Tammy Jones, Crystal Cotton, and other female Customer Service Representatives punitive damages for their malicious and reckless conduct described in paragraphs 10-14 above, in amounts to be determined at trial.

G. Order Defendants to make and preserve all records, in accordance with the provisions of Section 709(c) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-8(c), relevant to the determination of whether unlawful employment practices have been or are being committed.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

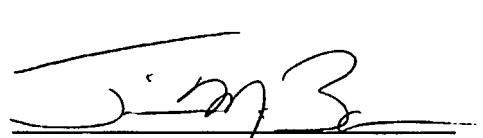
I. Award the Commission its costs of this action.

Respectfully submitted,

Eric S. Dreiband  
General Counsel

James L. Lee  
Deputy General Counsel

Gwendolyn Young Reams  
Associate General Counsel  
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Commission  
1801 L Street, N.W.  
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## H 04 CIVIL COVER SHEET

H 04 3788

(Rev. 07/89)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I(a) PLAINTIFFS**

EQUAL OPPORTUNITY COMMISSION

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF \_\_\_\_\_ (EXCEPT IN U.S. PLAINTIFF CASES)

(M)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Timothy M. Bowne, Trial Attorney  
EEOC-Houston District Office  
1919 Smith Street, 7th Floor  
Houston, Texas 77002  
(713) 209-3395

**DEFENDANTS**

U-Haul Co. of Texas, d/b/a U-Haul Co. of North Houston and U-Haul International, Inc.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT: Harris  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

United States Courts  
Southern District of Texas  
FILED

SEP 29 2004

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Michael N. Milby, Clerk of Court

**II. BASIS OF JURISDICTION**

(PLACE AN X IN ONE BOX ONLY)

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|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)          |
| <input type="checkbox"/> 2 U.S. Government Defendant            | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN X IN ONE BOX)

(For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

PTF DEF PTF DEF

Citizen of This State  1  1 Incorporated or Principal Place  4  4

of Business in This State

Citizen of Another State  2  2 Incorporated and Principal Place  5  5

of Business in Another State

Citizen or Subject of a  3  3 Foreign Nation  6  6

Foreign Country

**IV. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Defendants have engaged in unlawful employment practices in violation of Sections 703 and 704 of Title VII, and Section 102 of the Civil Rights Act of 1991. The practices include sex discrimination, subjecting women to an unlawfully hostile work environment, retaliation, and record-keeping violations.

**V. NATURE OF SUIT** (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <i>Habeas Corpus</i> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 IIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 72 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property					

**VI. ORIGIN**

(PLACE AN X IN ONE BOX ONLY)

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|---|---|--|---|---|---|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Judge from Magistrate Judgment |
|---|---|--|---|---|---|---|

Transferred from

Appeal to District

JURY DEMAND:  YES  NO**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION

UNDER F.R.C.P. 23

**DEMAND \$**

Check YES only if demanded in complaint:

**VIII. RELATED CASE(S) IF ANY** (See instructions)

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/29/04

UNITED STATES DISTRICT COURT